



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division for Air Quality

4 (Amendment)

5 401 KAR 51:052. Review of new sources in or impacting upon nonattainment areas.

6 RELATES TO: KRS 224.20-100(5), 224.20-110, 224.20-120, 40 C.F.R. Part 51,
7 Subpart I, 51.165, 51.166[(g)], 52.21, [52.21(r),] 60, 61, 81, Subpart D, 81.318, 42
8 U.S.C. 7401-7671q, EO 2009-538 [7401-7626, 7407(d)(1)(A)(i), (ii), and (iii), 7410]

9 STATUTORY AUTHORITY: KRS 224.10-100(5), [40 C.F.R. 51.165,] 42 U.S.C.
10 7401-7671q, EO 2009-538 [7401-7671q (Clean Air Act)]

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes
12 [requires] the cabinet [~~Environmental and Public Protection Cabinet~~] to promulgate
13 administrative regulations for the prevention, abatement and control of air pollution. EO
14 2009-538, effective June 12, 2009, establishes the Energy and Environment Cabinet.

15 This administrative regulation establishes requirements for the construction or
16 modification of stationary sources within, or impacting upon, areas where the national
17 ambient air quality standards have not been attained. The provisions of this
18 administrative regulation are neither different nor more stringent than the federal
19 regulation 40 C.F.R. 51.165.

20 Section 1. Applicability. This administrative regulation shall apply to the
21 construction of a new major stationary source or a [any] project that is a major

1 modification at an existing major stationary source, which commences construction after
2 September 22, 1982, and locates in or impacts upon an area designated nonattainment
3 under 42 U.S.C. 7407(d)(1)(A)(i).

4 (1) The provisions of this administrative regulation relating to visibility protection
5 shall also apply to major sources or major modifications in nonattainment areas that
6 potentially have an impact on visibility in a mandatory Class I federal area.

7 (2) Applicability tests for projects. Except as provided in subsection (3)
8 ~~[subsections (3) or (4)]~~ of this section, a project shall be a major modification for a
9 regulated NSR pollutant only if the project causes a significant emissions increase and
10 a significant net emissions increase, as provided in paragraphs (a) and (b) of this
11 subsection.

12 (a) Prior to beginning actual construction, the owner or operator shall first
13 determine if a significant emissions increase will occur for the applicable type of unit
14 being constructed or modified according to subparagraphs 1 to 3 ~~[4]~~ of this paragraph.

15 1. Actual-to-projected actual applicability test for projects that only involve
16 existing emissions units. A significant emissions increase of a regulated NSR pollutant
17 shall be projected to occur if the sum of the difference between the projected actual
18 emissions and the baseline actual emissions for each existing emissions unit equals or
19 exceeds the significant amount for that pollutant.

20 2. Actual-to-potential test for projects that involve only construction of new
21 emissions units. A significant emissions increase of a regulated NSR pollutant shall be
22 projected to occur if the sum of the potential to emit from each new emissions unit
23 following completion of the project equals or exceeds the significant amount for that

1 pollutant.

2 3. ~~[Emissions test for projects that involve clean units. For a project that will be~~
3 ~~constructed and operated at a clean unit as provided in Sections 11 and 12 of this~~
4 ~~administrative regulation, without causing the unit to lose its clean unit designation, an~~
5 ~~emissions increase shall not be deemed to occur.~~

6 ~~———4.] Hybrid test for projects that involve multiple types of emissions units. A~~
7 ~~significant emissions increase of a regulated NSR pollutant shall be projected to occur if~~
8 ~~the sum of the emissions increases for each emissions unit, using the methods~~
9 ~~specified in subparagraphs 1 and 2 [to 3] of this paragraph as applicable for each~~
10 ~~emissions unit, equals or exceeds the significant amount for that pollutant.~~

11 (b) Prior to beginning actual construction and after completing the applicable test
12 in paragraph (a) of this subsection, the owner or operator shall determine for each
13 regulated NSR pollutant if a significant net emissions increase will occur pursuant to
14 401 KAR 51:001, Section 1(144) and (218). ~~[1, (146).]~~

15 (3) For a plant-wide applicability limit (PAL) for a regulated NSR pollutant at a
16 major stationary source, the owner or operator of the major stationary source shall
17 comply with the applicable requirements of Section 11 [14] of this administrative
18 regulation.

19 ~~[(4) An owner or operator undertaking a pollution control project (PCP) shall~~
20 ~~comply with Section 13 of this administrative regulation.]~~

21 Section 2. Initial Screening Analyses and Determination of Applicable
22 Requirements. (1) Review of all sources for emissions limitation compliance.

23 (a) The cabinet shall examine each proposed major new source and proposed

1 major modification to determine if the source or modification will meet all applicable
2 emissions requirements in the Kentucky State Implementation Plan (SIP) and 40 C.F.R.
3 Parts 60 and 61.

4 (b) If the cabinet determines from the application and all other available
5 information that the proposed source or modification will not meet the applicable
6 emissions requirements, the permit to construct shall be denied.

7 (2) Review of specified sources of air quality impact.

8 (a) The cabinet shall determine if a proposed major stationary source or major
9 modification will be constructed in an area designated as nonattainment pursuant to 42
10 U.S.C. 7407(d)(1)(A)(i) for a pollutant for which the stationary source or modification is
11 major.

12 (b) If a designated nonattainment area is projected to be an attainment area as
13 part of an approved control strategy by the new source start-up date, offsets shall not be
14 required if the new source will not cause a new violation.

15 (3) Fugitive emissions sources. Sections 4 and 10 of this administrative
16 regulation shall not apply to a source or modification that will be a major stationary
17 source or major modification only if fugitive emissions, to the extent quantifiable, are
18 considered in calculating the potential to emit of the stationary source or modification
19 and the source does not belong to one (1) of the following categories:

20 (a) Coal cleaning plants with thermal dryers;

21 (b) Kraft pulp mills;

22 (c) Portland cement plants;

23 (d) Primary zinc smelters;

- 1 (e) Iron and steel mills;
- 2 (f) Primary aluminum ore reduction plants;
- 3 (g) Primary copper smelters;
- 4 (h) Municipal incinerators capable of charging more than 250 tons of refuse per
- 5 day;
- 6 (i) Hydrofluoric, sulfuric, or nitric acid plants;
- 7 (j) Petroleum refineries;
- 8 (k) Lime plants;
- 9 (l) Phosphate rock processing plants;
- 10 (m) Coke oven batteries;
- 11 (n) Sulfur recovery plants;
- 12 (o) Carbon black plants, furnace process;
- 13 (p) Primary lead smelters;
- 14 (q) Fuel conversion plants;
- 15 (r) Sintering plants;
- 16 (s) Secondary metal production plants;
- 17 (t) Chemical process plants, except ethanol production facilities producing
- 18 ethanol by natural fermentation under the North American Industry Classification
- 19 System (NAICS) codes 325193 or 312140; [plants;]
- 20 (u) Fossil-fuel boilers, or combination of fossil-fuel boilers, totaling more than 250
- 21 million BTUs per hour heat input;
- 22 (v) Petroleum storage and transfer units with a total storage capacity exceeding
- 23 300,000 barrels;

- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input; or
- (aa) Another stationary source category which, as of August 7, 1980, is being regulated under 42 U.S.C. 7411 or 7412.

Section 3. Sources Locating in Designated Attainment or Unclassifiable Areas that Will Cause or Contribute to a Violation of a National Ambient Air Quality Standard.

(1) This section shall apply only to new major stationary sources or new major modifications that will locate in designated attainment or unclassifiable areas, pursuant to 42 U.S.C. 7407(d)(1)(A)(ii) or (iii), if the source or modification will cause impacts that exceed the significance levels, as listed in the table in this subsection, at a locality that does not or will not meet the national ambient air quality standards.

Pollutant	Annual Average	Averaging Time			
		24-Hour	8-Hour	3-Hour	1-Hour
Sulfur Dioxide	1.0 ug /m ³	5 ug /m ³	--	25 ug /m ³	--
PM ₁₀	1.0 ug /m ³	5 ug /m ³	--	--	--
Nitrogen Dioxide	1.0 ug /m ³	--	--	--	--
Carbon Monoxide	--	--	0.5 mg/m ³	--	2 mg/m ³

1 (2) Sources to which this section applies shall meet the requirements in Section
2 4(1), (2) and (4) of this administrative regulation and may be exempt from Section 4(3)
3 of this administrative regulation.

4 (3) For sources of sulfur dioxide (SO₂), particulate matter, and carbon monoxide
5 (CO), the determination that a new major source or major modification will cause or
6 contribute to a violation of a national ambient air quality standard shall be made on a
7 case-by-case basis using the source's allowable emissions in an approved atmospheric
8 simulation model listed in 40 C.F.R. Part 51, Appendix [appendix] W, "Guideline on Air
9 Quality Models".

10 (4) For sources of NO_x, the initial determination that a new major source or major
11 modification will cause or contribute to a violation of the national ambient air quality
12 standard for nitrogen dioxide (NO₂) shall be made using an approved atmospheric
13 simulation model assuming all the nitric oxide emitted is oxidized to NO₂ by the time the
14 plume reaches ground level. The initial concentration estimates may be adjusted if
15 adequate data are available to account for the expected oxidation rate.

16 (5) For ozone, sources of VOCs or NO_x locating outside a designated ozone
17 nonattainment area shall be presumed to not have a [have no] significant impact on the
18 designated nonattainment area. If ambient monitoring indicates that the area of source
19 location is in fact nonattainment, the source shall be permitted pursuant to [under the
20 applicable provisions of] this administrative regulation and 401 KAR 52:020 until the
21 area is designated nonattainment pursuant to 42 U.S.C. 7407(d)(1)(A)(i).

22 (6) The determination that a new major source or major modification will cause or
23 contribute to a violation of a national ambient air quality standard shall be made as of

1 the start-up date.

2 (7) Applications for major new sources and major modifications locating in
3 attainment or unclassifiable areas, the operation of which will cause a new violation of a
4 national ambient air quality standard but will not contribute to an existing violation, may
5 be approved only if the following conditions are met:

6 (a) The new source shall:

7 1. Meet an emissions limitation;

8 2. Meet a design, operational, or ~~[operational or]~~ equipment standard; or

9 3. Control existing sources so that the new source will not cause a violation of a
10 national ambient air quality standard.

11 (b) The new emissions limitations for the new and existing sources affected shall
12 be state and federally enforceable in accordance with Section 6 of this administrative
13 regulation.

14 Section 4. Sources Locating in a Designated Nonattainment Area. This section
15 shall apply to a new major stationary source or major modification that will be
16 constructed in an area designated as nonattainment pursuant to 42 U.S.C.
17 7407(d)(1)(A)(i) for a pollutant for which the stationary source or modification is major.
18 Approval to construct may be granted only if the conditions of this section are met.

19 (1) The new major source or major modification shall be required to meet an
20 emissions limitation that specifies the lowest achievable emissions rate (LAER) for the
21 source.

22 (2) The applicant shall demonstrate that all existing major sources owned or
23 operated by the applicant, or an entity controlling, controlled by, or under common

1 control with the applicant, in the Commonwealth of Kentucky are in compliance with all
2 applicable emissions limitations and standards specified in Title 401, Chapters 50 to 65,
3 [63,] and 40 C.F.R. Parts 60 and 61 and 42 U.S.C. 7401-7626, or are in compliance
4 with an expeditious state and federally enforceable compliance schedule or a court
5 decree establishing a compliance schedule.

6 (3)(a) Except for VOCs or NO_x emissions, emissions from existing sources in the
7 affected area of the proposed new major source or modification, whether or not under
8 the same ownership, shall be reduced or ~~[reduced, or]~~ offset, so that there will be
9 reasonable further progress toward attainment of the applicable national ambient air
10 quality standard (NAAQS). Only those transactions in which the emissions being offset
11 are from the same criteria pollutant category shall be accepted.

12 (b) The ratio of total emissions reductions of VOCs or NO_x to total increased
13 emissions of the same air pollutant shall be at least the ratio indicated for the following
14 ozone nonattainment area classifications:

- 15 1. For marginal nonattainment areas, at least 1.1 to 1;
- 16 2. For moderate nonattainment areas, at least 1.15 to 1;
- 17 3. For serious nonattainment areas, at least 1.2 to 1;
- 18 4. For severe nonattainment areas, at least 1.3 to 1; and
- 19 5. For extreme nonattainment areas, at least 1.5 to 1.

20 (4) The emissions reductions shall provide a positive net air quality benefit in the
21 affected area.

22 (a) Atmospheric simulation modeling shall not be required for VOCs and NO_x.

23 (b) Except as provided in Section 3(5) of this administrative regulation,

1 compliance with subsection (3) of this section and Section 5(3)(e) of this administrative
2 regulation shall be adequate to meet this condition.

3 (5) The proposed major stationary source or major modification shall include in
4 the application for a construction permit an analysis of the alternative sites, sizes,
5 production processes, and environmental control techniques for the proposed source,
6 which demonstrates that benefits of the proposed source significantly outweigh the
7 environmental and social costs imposed as a result of its location, construction, or
8 modification.

9 Section 5. Determining Credit for Emissions Offsets. (1) The baseline for
10 determining credit for emissions reductions or offsets shall be:

11 (a) The emissions limitations in effect when [~~at the time~~] the application to
12 construct or modify a source is filed; or

13 (b) The actual emissions of the source from which offset credit is attained if:

14 1. The demonstration of reasonable further progress and attainment of ambient
15 air quality standards for the SIP was based on actual emissions; or

16 2. The SIP does not contain an emissions limitation for that source or source
17 category.

18 (c) Baseline actual emissions as defined in 401 KAR 51:001, Section 1(20), shall
19 not be used for determining the baseline for emissions offsets.

20 (2) Credit for emissions offsets. Credit for emissions offset may be allowed for
21 existing control that goes beyond the control required under 401 KAR Chapters 50 to 65
22 [68] and applicable [~~existing~~] federal regulations.

23 (3) General provisions for calculating offset values.

1 (a) Offset calculations shall be made on a pound-per-hour basis if all facilities
2 involved in the emissions offset calculations are operating at their maximum or allowed
3 production rate.

4 (b) Offsets may be calculated on a tons-per-year basis if baseline emissions for
5 existing sources providing the offsets are calculated using the actual annual operating
6 hours for the previous two (2) year period.

7 (c) If the cabinet requires certain hardware controls instead of an emissions
8 limitation, baseline allowable emissions shall be based on actual operating conditions
9 for the previous two (2) year period in conjunction with the required hardware controls.

10 (d) If the emissions limitations required by the cabinet allow greater emissions
11 than the uncontrolled emissions rate of the source, emissions offset credit shall be
12 allowed only for control below the uncontrolled emissions rate.

13 (e) The owner or operator of a new or modified major stationary source shall
14 comply with any offset requirement in effect under this administrative regulation to
15 increase emissions of an air pollutant by:

16 1. Obtaining emissions reductions of the air pollutant from the same source or
17 other sources in the same nonattainment area; or

18 2. From sources in another nonattainment area if:

19 a. The other area has an equal or higher nonattainment classification than the
20 area in which the source is located; and

21 b. Emissions from the other area contribute to a violation of the national ambient
22 air quality standard in the nonattainment area in which the source is located.

23 (4) Calculating offsets if an [æ] applicable emissions limitation does not exist.

1 [exists.] If the Kentucky SIP does not contain an emissions limitation for a source or
2 source category, the emissions offset baseline involving the source shall be actual
3 emissions determined under actual operating conditions for the previous two (2) year
4 period.

5 (5) Calculating offsets for existing fuel combustion sources.

6 (a) The emissions for determining emissions offset credit involving an existing
7 fuel combustion source shall be the allowable emissions under the emissions limitation
8 requirements of the cabinet for the type of fuel being burned when [at the time] the new
9 major source or major modification application is filed.

10 (b) If the existing source has switched to a different type of fuel at some earlier
11 date, a resulting emissions reduction, either actual or allowable, shall not be used for
12 emissions offset credit.

13 (c) If the existing source commits to switch to a cleaner fuel at some future date,
14 emissions offset credit based on the allowable emissions for the fuels involved shall not
15 be allowed unless the permit is conditioned to require the use of a specified alternative
16 control measure that will achieve the same degree of emissions reduction if the source
17 switches back to a dirtier fuel at some later date.

18 (6) Calculating offsets for operating hours and source shutdowns.

19 (a) A source may be credited with emissions reductions achieved by shutting
20 down an existing source or permanently curtailing production or operating hours below
21 baseline levels if the work force to be affected has been notified in writing of the
22 proposed shutdown or curtailment.

23 (b) Source shutdowns and curtailments in production or operating hours

1 occurring prior to the date the new source application is filed shall not be used for
2 emissions offset credit.

3 (c) If an applicant can establish that it shut down or curtailed production after
4 August 7, 1977, or less than one (1) year prior to the date of permit application,
5 whichever is earlier, and the proposed new source is a replacement for the shutdown or
6 curtailment, credit for the [such] shutdown or curtailment may be applied to offset
7 emissions from the new source.

8 (7) Calculating offsets for hydrocarbon substitution. An emissions offset credit
9 shall be allowed for replacing one volatile organic compound with another of lesser
10 photochemical reactivity, unless the replacement compound is methane, ethane, 1,1,1-
11 trichloroethane, or [1,1,1-trichloroethane or] trichlorofluoroethane.

12 (8) Banking of emissions offset credit.

13 (a) New sources obtaining permits by applying offsets after the effective date of
14 this administrative regulation may bank offsets that exceed the requirements of Section
15 5(3) of this administrative regulation.

16 (b) An owner or operator of an existing source that reduces its own emissions
17 may bank a resulting reduction beyond those required by regulation for use under this
18 administrative regulation, even if the offsets are applied immediately to a new source
19 permit.

20 (c) Banked emissions offsets may be used under the preconstruction review
21 program required in 42 U.S.C. 7401 to 7626, as long as these banked emissions are
22 identified and accounted for in Kentucky's control strategy.

23 (9) Offset credit for meeting NSPS or NESHAPS.

1 (a) If a source is subject to an emissions limitation established in a New Source
2 Performance Standard (NSPS) or a National Emissions Standard for Hazardous Air
3 Pollutants (NESHAPS) and a different emissions limitation is required by the cabinet,
4 the more stringent limitation shall be used as the baseline for determining credit for
5 emissions offsets.

6 (b) The difference in emissions between NSPS or NESHAPS and other
7 emissions limitations shall ~~[may]~~ not be used as offset credit.

8 Section 6. Administrative Procedures for Emissions Offsets. (1) Emission
9 reductions shall be enforceable by the cabinet and the U.S. EPA, and shall be
10 accomplished by the start-up date of the new source.

11 (a) If emissions reductions are to be obtained in a state that neighbors the
12 Commonwealth for a new source to be located in the Commonwealth, the emissions
13 reductions shall be enforceable by the neighboring state or local agencies and the U.S.
14 EPA.

15 (b) The necessary emissions offsets may be proposed by the owner of the
16 proposed source or by the cabinet.

17 (2) Source initiated emissions offsets.

18 (a) The owner or operator of a source may propose:

19 1. Internal emissions offsets, which involve reductions from sources controlled by
20 the owner; or

21 2. External emissions offsets, which involve reductions from other sources, if the
22 emissions offsets meet the requirements of this section and Section 4(3) of this
23 administrative regulation.

1 (b) An internal emissions offset shall be included and made enforceable as a
2 condition of the source's permit.

3 (c) An external emissions offset shall only be accepted if the cabinet requires the
4 affected source to comply with a new emissions limitation to ensure that its emissions
5 shall be reduced by a specified amount in a specified time; and the new emissions
6 limitation shall be enforceable by the cabinet and the U.S. EPA.

7 (3) Cabinet initiated emissions offsets.

8 (a) The cabinet may commit to reducing emissions from mobile sources and
9 other existing sources to provide a net air quality benefit in the impact area of a
10 proposed new source to accommodate the proposed new source.

11 (b) This emissions reduction commitment shall be reflected in the emissions
12 limitation requirements for the new and existing sources as required by this section.

13 Section 7. Source Obligation. (1) An owner or operator of a source or
14 modification subject to this administrative regulation shall construct and operate the
15 source or modification in accordance with the application submitted to the cabinet under
16 this administrative regulation and 401 KAR 52:020 or under the terms of an approval to
17 construct.

18 (2)(a) Approval to construct shall become invalid if construction:

- 19 1. Is not commenced within eighteen (18) months after receipt of the approval;
20 2. Is discontinued for a period of eighteen (18) months or more; or
21 3. Is not completed within a reasonable time.

22 (b) The cabinet may extend the eighteen (18) month period upon a satisfactory
23 demonstration [showing] that an extension is justified.

1 1. An extension shall not apply to the time period between construction of the
2 approved phases of a phased construction project; and

3 2. Each phase shall commence construction within eighteen (18) months of the
4 projected and approved commencement date.

5 (3) Approval to construct shall not relieve an owner or operator of the
6 responsibility to comply fully with applicable provisions of 401 KAR Chapters 50 to 65
7 ~~[63]~~ and ~~[any]~~ other applicable requirements under local, state, or federal law.

8 (4) If a particular source or modification becomes a major stationary source or
9 major modification solely by virtue of a relaxation in an enforceable limitation which was
10 established after August 7, 1980, on the capacity of the source or modification
11 otherwise to emit a pollutant, the requirements of this administrative regulation shall
12 apply to the source or modification as though construction had not yet commenced on
13 the source or modification.

14 (5)(a) The provisions of this subsection shall apply to projects at existing
15 emissions units at a major stationary source other than projects at ~~[a clean unit or at]~~ a
16 source with a PAL, if:

17 1. There is a reasonable possibility that a project that is not part of a major
18 modification may result in a significant emissions increase; and

19 2. The owner or operator uses the method specified in 401 KAR 51:001, Section
20 1(199)(b)~~[(202)(b)]~~ to calculate projected actual emissions.

21 (b) Before beginning actual construction of a project specified in paragraph (a) of
22 this subsection, the owner or operator shall document and maintain a record of the
23 following information:

1. A description of the project;
 2. Identification of the emissions units for which emissions of a regulated NSR pollutant may be affected by the project; and
 3. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including:
 - a. Baseline actual emissions;
 - b. Projected actual emissions;
 - c. Amount of emissions excluded in calculating projected actual emissions and an explanation for why that amount was excluded; and
 - d. Any applicable netting calculations.
- (c) For a project specified in paragraph (a) of this subsection, the owner or operator shall:
1. Monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by an emissions unit identified in paragraph (a)2 of this subsection; and
 2. Calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for:
 - a. Five (5) years following resumption of regular operations after the change; or
 - b. Ten (10) years if the project increases the design capacity of or potential to emit for that regulated NSR pollutant at the emissions unit.
- (d) If the unit is an existing EUSGU, before beginning actual construction, the owner or operator:
1. Shall provide a copy of the information in paragraph (b) of this subsection to

1 the cabinet; and

2 2. Shall not be required to obtain a determination from the cabinet before
3 beginning actual construction; and

4 3. Shall submit a report to the cabinet within sixty (60) days after the end of each
5 year during which records are required to be generated under paragraph (b) of this
6 subsection that contains the unit's annual emissions during the calendar year preceding
7 report submittal.

8 (e)1. For an existing unit other than an EUSGU, the owner or operator shall
9 submit a report to the cabinet if:

10 a. The annual emissions, in tons per year, from a project identified in paragraph
11 (a) of this subsection exceed the baseline actual emissions, as documented and
12 maintained pursuant to paragraph (b)3 of this subsection, by a significant amount for
13 that regulated NSR pollutant; and

14 b. The emissions differ from the preconstruction projection as documented and
15 maintained pursuant to paragraph (b)3 of this subsection.

16 2. The report shall be submitted to the cabinet within sixty (60) days after the end
17 of the year during which records are required to be generated under paragraph (b) of
18 this subsection and shall contain the following:

19 a. The name, address, and telephone number of the major stationary source;

20 b. The annual emissions as calculated pursuant to paragraph (c) of this
21 subsection; and

22 c. Any other information that the owner or operator wishes to include in the
23 report.

1 (f) The owner or operator of the source shall make the information required to be
2 documented and maintained under this subsection available for review upon request for
3 inspection by the cabinet or the general public pursuant to 401 KAR 52:100.

4 Section 8. Permit Condition Rescission. (1) An owner or operator holding a
5 permit for a stationary source or modification that [which] was issued pursuant to 401
6 KAR 51:050 or [401-KAR] 51:051E may request that the cabinet rescind the applicable
7 conditions.

8 (2) The cabinet shall rescind a permit condition if the owner or operator:

9 (a) Requests and [~~if requested and the applicant~~] demonstrates to the
10 satisfaction of the cabinet that this administrative regulation does not apply to the
11 source or modification or to a portion of the source or modification if construction will
12 have commenced after September 22, 1982; and

13 (b) Demonstrates [~~1982, and if the owner or operator demonstrates~~] that the
14 rescission will not violate the requirements of Sections 4(3) and 7 of this administrative
15 regulation.

16 Section 9. Class I Areas. (1) The following areas, [areas] which were in
17 existence on August 7, 1977, shall be Class I areas and shall not be redesignated:

18 (a) International parks;

19 (b) National wilderness areas and national memorial parks which exceed 5,000
20 acres in size; and

21 (c) National parks that exceed 6,000 acres in size.

22 (2) Any other area, unless otherwise specified in the legislation creating the area,
23 is designated Class II but may be redesignated as provided in 40 C.F.R. 51.166(g).

1 (3) The visibility protection requirements of this administrative regulation shall
2 apply only to sources that may impact a mandatory Class I federal area.

3 (4) The following areas may be redesignated only as Class I or II:

4 (a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was
5 a national monument, a national primitive area, a national preserve, a national
6 recreational area, a national wild and scenic river, a national wildlife refuge, a national
7 lakeshore or seashore; and

8 (b) A national park or national wilderness area established after August 7, 1977,
9 which exceeds 10,000 acres in size.

10 Section 10. Protection of Visibility. (1) New source review; [review--] applicability
11 and exemptions.

12 (a) A stationary source or modification to which this section applies shall not
13 begin actual construction without a permit that states the stationary source or
14 modification shall meet the requirements of this section.

15 (b) This section shall apply to construction of a new major stationary source or
16 major modification that will be constructed in an area designated as nonattainment
17 under 42 U.S.C. 7407(d)(1)(A)(i) and potentially have an impact on visibility in a Class I
18 area.

19 (c) This section shall apply to a major stationary source or major modification for
20 each pollutant subject to regulation under 42 U.S.C. 7401 to 7626 that it will emit,
21 except as provided in paragraphs (d) and (e) of this subsection.

22 (d) This section shall not apply to a particular major stationary source or major
23 modification if:

1 1. The source or modification is a nonprofit health or nonprofit educational
2 institution, or a major modification will occur at the institution, and the Governor of the
3 Commonwealth requests that it be exempt from the requirements of this section; and

4 2. The source is a portable stationary source that has previously received a
5 permit under this section and will be temporarily relocated; and:

6 a. [relocated,] The emissions from the source will not exceed the allowable
7 emissions;

8 b. The emissions from the source will not impact a Class I area or an area where
9 an applicable increment is known to be violated; and

10 c. Reasonable notice is given to the cabinet prior to the relocation, identifying the
11 proposed new location and the probable duration of operation at the new location. The
12 notice shall be given to the cabinet not less than ten (10) days in advance of the
13 proposed relocation unless a different time duration is previously approved by the
14 cabinet pursuant to this section. [cabinet.]

15 (e) This section shall not apply to a major stationary source or major modification
16 with respect to a particular pollutant, if the allowable emissions of that pollutant from the
17 source, or the net emissions increase of that pollutant from the modification:

18 1. Will not impact a Class I area;

19 2. Will not impact an area where an applicable increment is known to be violated;

20 and

21 3. Will be temporary.

22 (2) Visibility impact analyses. The owner or operator of a source shall provide an
23 analysis of the impairment to visibility that will occur in a Class I area as a result of the

1 source or modification and general commercial, residential, industrial, and [industrial
2 and] other growth associated with the source or modification.

3 (3) Federal land manager notification.

4 (a) The federal land manager and the federal official charged with direct
5 responsibility for management of Class I areas shall have an affirmative responsibility to
6 protect the visibility and other air quality related values of the Class I lands and to
7 consider, in consultation with the cabinet, if a proposed source or modification will have
8 an adverse impact on these values.

9 (b) The cabinet shall provide written notification to all affected federal land
10 managers and to the federal official charged with direct responsibility for management
11 of lands within the Class I area of a permit application or an advanced notice of a permit
12 application for a proposed new major stationary source or major modification that may
13 affect visibility in a Class I area. The notification shall:

14 1. Include a copy of all information relevant to the permit application;
15 2. Be submitted pursuant to this paragraph [~~(b) of this subsection~~] within thirty
16 (30) days of receipt of the permit application or advanced notice of permit application
17 and at least sixty (60) days prior to a public hearing on the application for a permit to
18 construct; and

19 3. Include [~~include~~] an analysis of the proposed source's anticipated impacts on
20 visibility in a Class I area.

21 (c)1. The cabinet shall consider an analysis by the federal land manager,
22 provided within thirty (30) days of the notification and analysis required by paragraph (b)
23 of this subsection, that the proposed new major stationary source or major modification

1 may have an adverse impact on visibility in a Class I area.

2 2. If the cabinet finds that the analysis does not demonstrate, to the satisfaction
3 of the cabinet, that an adverse impact on visibility will result in the Class I area, the
4 cabinet shall, in the public hearing notice required in 401 KAR 52:100, either explain
5 that decision or give notice as to where the explanation can be obtained.

6 (d) Adverse impact on visibility as it applies to paragraph (c) of this subsection
7 shall be determined on a case-by-case basis, taking into account the geographic extent,
8 intensity, duration, frequency, and time of visibility impairments, and how these factors
9 correlate with the times of visitor use of the Class I area, and the frequency and time of
10 natural conditions that reduce visibility.

11 (4) Public participation. The cabinet shall follow the applicable procedures of 401
12 KAR 52:100 in processing applications under this section and ~~[section. The cabinet]~~
13 shall follow the procedures at 40 C.F.R. 52.21(r), effective ~~[52.21(r) as in effect on]~~ July
14 1, 2003, to the extent that the procedures of 401 KAR 52:100 do not apply.

15 (5) National visibility goal.

16 (a) The cabinet shall only issue permits to those sources for which emissions will
17 be consistent with making reasonable progress toward the national goal of preventing
18 future, and remedying existing, impairment of visibility in Class I areas which impairment
19 results from manmade air pollution.

20 (b) In making the decision to issue a permit, the cabinet may take into account
21 the overriding factors of:

22 1. The cost of compliance;

23 2. The time necessary for compliance;

1 3. The energy and non-air ~~[nonair]~~ quality environmental impacts of compliance;
2 and

3 4. The useful life of the source.

4 (6) Monitoring.

5 (a) The cabinet may require monitoring of visibility in a Class I area near the
6 proposed new stationary source or major modification using human observations,
7 teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or
8 other appropriate methods as specified by the U.S. EPA.

9 (b) The monitoring method selected shall be determined on a case-by-case basis
10 by the cabinet.

11 (c) The cabinet shall not undertake visibility monitoring in a Class I area without
12 the approval of the federal land manager.

13 (d) Data obtained from visibility monitoring shall be made available to the cabinet,
14 the federal land manager, and the U.S. EPA, upon request.

15 ~~[Section 11. Clean Unit Test for Emissions Units that are Subject to LAER. For~~
16 ~~any emissions unit that is subject to LAER and for which the cabinet has issued a major~~
17 ~~NSR permit in the past ten (10) years, an owner or operator of a major stationary source~~
18 ~~may use the clean unit test provisions specified in this section to determine if an~~
19 ~~emissions increase at a clean unit is part of a project that is a major modification.~~

20 ~~—— (1) General provisions for clean units.~~

21 ~~—— (a) The cabinet shall make a separate clean unit designation for each pollutant~~
22 ~~emitted by an emissions unit for which the emissions unit qualifies as a clean unit.~~

23 ~~—— (b) A project for which the owner or operator begins actual construction shall be~~

1 ~~considered to have occurred while the emissions unit is a clean unit, if actual~~
2 ~~construction begins:~~

3 ~~—— 1. After the effective date of the clean unit designation as determined according~~
4 ~~to subsection (3) of this section; and~~

5 ~~—— 2. Before the expiration date of the clean unit designation as determined~~
6 ~~according to subsection (4) of this section.~~

7 ~~—— (c) For an emissions unit to retain its clean unit designation during a project at a~~
8 ~~clean unit, the project shall not:~~

9 ~~—— 1. Cause the need for a change in the emissions limitations or work practice~~
10 ~~requirements adopted in conjunction with LAER in the permit for the unit; and~~

11 ~~—— 2. Alter any physical or operational characteristics that formed the basis for the~~
12 ~~LAER determination as specified in subsection (5)(d) of this section.~~

13 ~~—— (d) Unless an emissions unit requalifies as a clean unit according to subsection~~
14 ~~(2)(b) of this section, the unit shall lose its designation as a clean unit upon issuance of~~
15 ~~the necessary permit revisions if:~~

16 ~~—— 1. The project causes the need for a change in the emissions limitations or work~~
17 ~~practice requirements that were determined in conjunction with LAER in the permit for~~
18 ~~the unit; or~~

19 ~~—— 2. The project will alter any physical or operational characteristics that formed the~~
20 ~~basis for the LAER determination as specified in subsection (5)(d) of this section.~~

21 ~~—— (e) Clean unit designation shall end immediately before the time actual~~
22 ~~construction begins on a project that will cause a unit to lose its clean unit designation if~~
23 ~~the owner or operator begins actual construction on a project before applying for a~~

1 permit revision.

2 ~~—— (f) A project that causes an emissions unit to lose its clean unit designation shall~~
3 ~~be subject to the applicability requirements of Section 1(2)(a)1, 2, and 4 and (b) of this~~
4 ~~administrative regulation as if the emissions unit is not a clean unit.~~

5 ~~—— (g)1. For emissions units with PSD permits, the BACT level of emissions~~
6 ~~reductions or work practice requirements shall satisfy the requirement for meeting LAER~~
7 ~~in subsections (3) to (8) of this section if:~~

8 ~~—— a. The emissions unit has received a PSD permit that complies with BACT within~~
9 ~~the last ten (10) years; and~~

10 ~~—— b. The emissions unit is located in an area that was redesignated as~~
11 ~~nonattainment for the relevant pollutant after the PSD permit is issued and before the~~
12 ~~SIP including the clean unit provisions become effective.~~

13 ~~—— 2. For these emissions units, the requirements for the LAER determination made~~
14 ~~under subsection (1)(c) of this section shall apply to the BACT permit terms and~~
15 ~~conditions.~~

16 ~~—— 3. The requirements of subsection (6)(a)3 of this section shall not apply to~~
17 ~~emissions units that qualify for clean unit status according to this paragraph.~~

18 ~~—— (2) Qualifying or requalifying to use the clean unit applicability test.~~

19 ~~—— (a) An emissions unit shall automatically qualify as a clean unit if the unit meets~~
20 ~~the requirements in this paragraph.~~

21 ~~—— 1. Permitting requirement. The owner or operator of an emissions unit shall have~~
22 ~~received a major NSR permit within the past ten (10) years and shall maintain and~~
23 ~~provide information upon request by the cabinet or U.S. EPA to demonstrate that this~~

1 ~~permitting requirement is met.~~

2 ~~2. Qualifying air pollution control technologies requirement. Air pollutant~~
3 ~~emissions from the emissions unit shall be reduced through the use of air pollution~~
4 ~~control technology, including pollution prevention or work practices, that meets the~~
5 ~~following requirements:~~

6 ~~a. The control technology shall achieve the LAER level of emissions reductions~~
7 ~~determined by issuance of a major NSR permit within the past ten (10) years;~~

8 ~~b. The emissions unit shall not be eligible for the clean unit designation if the~~
9 ~~LAER determination did not result in a requirement to reduce emissions below the level~~
10 ~~of a standard, uncontrolled, new emissions unit of the same type; and~~

11 ~~c. The owner or operator shall have made an investment to install the control~~
12 ~~technology. An investment includes expenses to research the application of, or to~~
13 ~~actually apply, a pollution prevention technique to the emissions unit or to retool the unit~~
14 ~~to apply a pollution prevention technique.~~

15 ~~(b) Requalifying for the clean unit designation. After the original clean unit~~
16 ~~designation expires or is lost, an emissions unit may requalify as a clean unit under the~~
17 ~~provisions of this paragraph or under Section 12 of this administrative regulation.~~

18 ~~1. An owner or operator shall obtain a new major NSR permit or permit revision,~~
19 ~~as applicable, issued pursuant to 401 KAR 52:020 for an emissions unit that is~~
20 ~~requalifying for clean unit designation.~~

21 ~~2. The permit shall require compliance with the current day LAER, and the~~
22 ~~emissions unit shall meet the requirements in subsection (3)(a) of this section.~~

23 ~~(3) Effective date of the clean unit designation. The date that the owner or~~

~~operator may begin to use the clean unit test to determine if a project involving an emissions unit is a major modification shall be determined according to paragraph (a) or (b) of this subsection, as applicable.~~

~~_____ (a) The effective date for an original clean unit designation and for an emissions unit that requalifies as a clean unit by implementing a new control technology to meet current-day LAER shall be:~~

~~_____ 1. The earlier of the date the emissions unit's air pollution control technology is placed into service or three (3) years after the date the major NSR permit or permit revision is issued; and~~

~~_____ 2. No sooner than the date that provisions for clean units become effective in the Kentucky SIP.~~

~~_____ (b) The effective date for emissions units that requalify for the clean unit designation using an existing control technology shall be the date the new major NSR permit or permit revision is issued.~~

~~_____ (4) Clean unit expiration. The date that the owner or operator shall no longer be allowed to use the clean unit test to determine if a project involving an emissions unit is, or is part of, a major modification shall be determined according to paragraph (a) or (b) of this subsection, as applicable.~~

~~_____ (a) For an emissions unit that automatically qualifies as a clean unit under subsection (2)(a) of this section or a unit that requalifies by implementing new control technology to meet current-day LAER, the expiration date of the clean unit designation shall be:~~

~~_____ 1. Ten (10) years after the effective date or ten (10) years after the date the~~

1 equipment went into service, whichever is earlier; or

2 ~~2. At any time the owner or operator fails to comply with the provisions for~~
3 ~~maintaining the clean unit designation pursuant to subsection (6) of this section.~~

4 ~~(b) The clean unit designation for an emissions unit that requalifies for the clean~~
5 ~~unit designation using an existing control technology shall expire:~~

6 ~~1. Ten (10) years after the effective date; or~~

7 ~~2. At any time the owner or operator fails to comply with the provisions for~~
8 ~~maintaining the clean unit designation in subsection (6) of this section.~~

9 ~~(5) Required Title V permit content for a clean unit. The Title V permit for a major~~
10 ~~stationary source with a clean unit shall, after the effective date of the clean unit~~
11 ~~designation and in accordance with the applicable provisions of 401 KAR Chapter 52,~~
12 ~~but not later than the date the Title V permit is renewed, include the following terms and~~
13 ~~conditions:~~

14 ~~(a) A statement indicating that the emissions unit qualifies as a clean unit and~~
15 ~~identifying the pollutant for which this clean unit designation applies.~~

16 ~~(b) The effective date of the clean unit designation.~~

17 ~~1. If the exact effective date is not known on the date the clean unit designation is~~
18 ~~initially recorded in the Title V permit, the permit or permit revision shall describe the~~
19 ~~event that shall determine the effective date. Once the effective date is determined, the~~
20 ~~owner or operator shall notify the cabinet of the exact date; and~~

21 ~~2. If originally absent from the Title V permit, the effective date of the clean unit~~
22 ~~shall be added to the source's Title V permit at the first opportunity the permit is opened,~~
23 ~~but not later than the next renewal.~~

1 ~~—— (c) The expiration date of the clean unit designation.~~

2 ~~—— 1. If the exact expiration date is not known at the date the clean unit designation~~
3 ~~is initially recorded in the Title V permit, the permit shall describe the event that shall~~
4 ~~determine the expiration date;~~

5 ~~—— 2. Once the expiration date is determined, the owner or operator shall notify the~~
6 ~~cabinet of the exact date; and~~

7 ~~—— 3. If originally absent for the Title V permit, the expiration date shall be added to~~
8 ~~the source's Title V permit at the first opportunity the permit is opened, but not later than~~
9 ~~the next renewal.~~

10 ~~—— (d) All emissions limitations and work practice requirements adopted in~~
11 ~~conjunction with LAER and any physical or operational characteristics that formed the~~
12 ~~basis for the LAER determination.~~

13 ~~—— (e) Monitoring, recordkeeping, and reporting requirements as necessary to~~
14 ~~demonstrate that the emissions unit continues to meet the criteria for maintaining the~~
15 ~~clean unit designation pursuant to subsection (6) of this section.~~

16 ~~—— (f) Terms reflecting the owner or operator's duty to maintain the clean unit~~
17 ~~designation and the consequences of failing to do so, pursuant to subsection (6) of this~~
18 ~~section.~~

19 ~~—— (6) Maintaining the clean unit designation.~~

20 ~~—— (a) The owner or operator of a clean unit shall conform to the provisions of this~~
21 ~~subsection to maintain the clean unit designation.~~

22 ~~—— 1. The clean unit shall comply with the emissions limitations or work practice~~
23 ~~requirements adopted in conjunction with the LAER that are recorded in the major NSR~~

1 permit and subsequently reflected in the Title V permit;

2 ~~2. The owner or operator shall not make a physical change in or change in the~~
3 ~~method of operation of the clean unit that causes the emissions unit to function in a~~
4 ~~manner that is inconsistent with the physical or operational characteristics that formed~~
5 ~~the basis for the LAER determination;~~

6 ~~3. The clean unit shall not emit above a level that has been offset.~~

7 ~~4. The clean unit shall comply with all terms and conditions in the Title V permit~~
8 ~~related to the unit's clean unit designation; and~~

9 ~~5. The clean unit shall continue to control emissions using the specific air~~
10 ~~pollution control technology that is the basis for its clean unit designation. The clean unit~~
11 ~~designation shall end if the emissions unit or control technology is replaced.~~

12 ~~(b) The requirements of this subsection shall apply to each pollutant for which the~~
13 ~~cabinet has designated an emissions unit a clean unit. Failing to conform to the~~
14 ~~restrictions for one (1) pollutant shall only affect the clean unit designation for that~~
15 ~~pollutant.~~

16 ~~(7) Offsets and netting at clean units.~~

17 ~~(a) Emissions changes that occur at a clean unit shall not be included in~~
18 ~~calculating a significant net emissions increase to be used in a netting analysis or for~~
19 ~~generating offsets, unless:~~

20 ~~1. Such use occurs before the effective date of the clean unit designation, or after~~
21 ~~the clean unit designation expires; or~~

22 ~~2. The emissions unit reduces emissions below the level that qualified the unit as~~
23 ~~a clean unit.~~

~~(b) The owner or operator may generate a credit for the difference between the level that qualified the unit as a clean unit and the new emissions limitation, if:~~

~~1. The unit reduces emissions below the level that qualified the unit as a clean unit; and~~

~~2. The reductions are surplus, quantifiable, and permanent.~~

~~(c) For generating offsets, reductions shall be federally enforceable.~~

~~(d) For determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.~~

~~(8) Effect of area redesignation on clean units.~~

~~(a) The clean unit designation of an emissions unit shall not be affected by redesignation of the attainment status of the area in which it is located.~~

~~(b) If an existing clean unit designation expires or is lost, the unit shall requalify as a clean unit according to the requirements currently applicable in the area, regardless of the area's original attainment status during the previous designation period.~~

~~Section 12. Clean Unit Provisions for Emissions Units that Achieve an Emissions Limitation Comparable to LAER. For an emissions unit that does not qualify as a clean unit under Section 11 of this administrative regulation but is achieving a level of emissions control comparable to LAER, the owner or operator of a major stationary source may use the clean unit test provisions specified in this section to determine if an emissions increase at the unit is part of a project that is a major modification.~~

~~(1) General provisions for clean units.~~

~~(a) The cabinet shall make a separate clean unit designation for each pollutant~~

1 ~~emitted by an emissions unit for which the emissions unit qualifies as a clean unit.~~

2 ~~—— (b) A project for which the owner or operator begins actual construction shall be~~
3 ~~considered to have occurred while the emissions unit is a clean unit, if actual~~
4 ~~construction begins:~~

5 ~~—— 1. After the effective date of the clean unit designation as determined pursuant to~~
6 ~~subsection (4) of this section; and~~

7 ~~—— 2. Before the expiration date of the clean unit designation as determined~~
8 ~~pursuant to subsection (5) of this section.~~

9 ~~—— (c) For an emissions unit to retain its clean unit designation during a project at a~~
10 ~~clean unit, the project shall not:~~

11 ~~—— 1. Cause the need for a change in the emissions limitations or work practice~~
12 ~~requirements in the permit for the unit that have been determined to be comparable to~~
13 ~~LAER according to subsection (3) of this section; and~~

14 ~~—— 2. Alter any physical or operational characteristics that formed the basis for~~
15 ~~determining that the emissions unit's control technology achieves a level of emissions~~
16 ~~control comparable to LAER according to subsection (7)(d) of this section.~~

17 ~~—— (d) Unless an emissions unit requalifies as a clean unit according to subsection~~
18 ~~(2)(b) of this section, the unit shall lose its designation as a clean unit upon issuance of~~
19 ~~the necessary permit revisions, if~~

20 ~~—— 1. The project causes the need for a change in the emissions limitations or work~~
21 ~~practice requirements in the permit for the unit that have been determined to be~~
22 ~~comparable to LAER; or~~

23 ~~—— 2. The project will alter any physical or operational characteristics that formed the~~

1 ~~basis for determining that the emissions unit's control technology achieves a level of~~
2 ~~emissions control comparable to LAER.~~

3 ~~—— (e) Clean unit designation shall end immediately before the time actual~~
4 ~~construction begins on a project that will cause a unit to lose its clean unit designation, if~~
5 ~~the owner or operator begins actual construction on a project before applying for a~~
6 ~~permit revision.~~

7 ~~—— (f) A project that causes an emissions unit to lose its clean unit designation shall~~
8 ~~be subject to the applicability requirements of Section 1(2)(a)1, 2, and 4 and (b) of this~~
9 ~~administrative regulation as if the emissions unit were never a clean unit.~~

10 ~~—— (2) Qualifying or requalifying to use the clean unit applicability test.~~

11 ~~—— (a) An emissions unit shall qualify as a clean unit if the unit meets the~~
12 ~~requirements of this paragraph.~~

13 ~~—— 1. Qualifying air pollution control technology requirement. Air pollutant emissions~~
14 ~~from an emissions unit shall be reduced through the use of air pollution control~~
15 ~~technology, including pollution prevention or work practices, and the owner or operator~~
16 ~~shall:~~

17 ~~—— a. Demonstrate that an emissions unit's control technology is comparable to~~
18 ~~LAER according to the requirements of subsection (3) of this section;~~

19 ~~—— b. Demonstrate that an emissions unit's control technology reduces emissions~~
20 ~~below the level of a standard, uncontrolled emissions unit of the same type; and~~

21 ~~—— c. Have made an investment to install the control technology. An investment shall~~
22 ~~include expenses to research the application of, or to actually apply, a pollution~~
23 ~~prevention technique to the emissions unit or to retool the unit to apply a pollution~~

1 prevention technique.

2 ~~2. Impact of emissions from the unit requirement. The allowable emissions from~~
3 ~~the emissions unit, as determined by the cabinet, shall not:~~

4 ~~a. Cause or contribute to a violation of any national ambient air quality standard~~
5 ~~or PSD increment; or~~

6 ~~b. Adversely impact visibility or another air quality related value that has been~~
7 ~~identified for a federal Class I area by a federal land manager and for which information~~
8 ~~is available to the general public.~~

9 ~~3. Date of installation requirement.~~

10 ~~a. For control technology installed before provisions for clean units are effective~~
11 ~~in the Kentucky SIP, the owner or operator of an emissions unit with control technology~~
12 ~~on which clean unit designation is based, shall apply for clean unit designation within~~
13 ~~two (2) years after the requirements for clean units become effective in the Kentucky~~
14 ~~SIP.~~

15 ~~b. For control technology installed after the provisions for clean units become~~
16 ~~effective in the Kentucky SIP, the owner or operator shall apply for clean unit~~
17 ~~designation at the time the control technology is installed.~~

18 ~~(b) Requalifying as a clean unit. An emissions unit may requalify as a clean unit~~
19 ~~after the original clean unit designation expires or is lost according to provisions in~~
20 ~~subsections (6) and (7) of this section or under clean unit provisions in Section 11 of this~~
21 ~~administrative regulation.~~

22 ~~1. The owner or operator shall obtain a new permit or permit revision pursuant to~~
23 ~~subsections (6) and (7) of this section and 401 KAR 52:020 that demonstrates the~~

emissions unit's control technology is achieving a level of emissions control comparable to current day LAER.

~~2. The emissions unit shall meet the requirements in subsection (2)(a)1 and 2 of this section.~~

~~(3) Demonstrating control effectiveness comparable to LAER. The owner or operator shall demonstrate that the emissions unit's control technology is comparable to LAER under the provisions of either paragraph (a) or (b) of this subsection.~~

~~(a) Comparison of the control technology to previous LAER determinations.~~

~~1. An emissions unit's control technology shall be presumed to be comparable to LAER if the control technology achieves an emissions limitation that is at least as stringent as one of the five best performing similar sources for which a LAER determination has been made within the preceding five (5) years and for which information has been entered into the RACT/BACT/LAER clearinghouse.~~

~~2. To determine the accuracy of any presumptive determination that an achieved-in-practice control technology is comparable to LAER, the cabinet shall:~~

~~a. Consider any information on achieved-in-practice pollution control technologies that is provided during the public comment period; and~~

~~b. Compare this presumption to any additional LAER determinations of which the cabinet is aware.~~

~~(b) The substantially as effective test. The owner or operator may demonstrate that the emissions unit's control technology is substantially as effective as LAER according to this paragraph. The cabinet:~~

~~1. Shall consider the evidence on a case by case basis that an owner or~~

~~operator, and any other person during the public participation process, provides to the cabinet to demonstrate if the emissions unit's control technology is substantially as effective as LAER; and~~

~~2. Shall determine if the emissions unit's air pollution control technology is substantially as effective as LAER after considering the evidence.~~

~~(c) Time of comparison.~~

~~1. Emissions units with control technologies installed before provisions for clean units are effective in the Kentucky SIP. The owner or operator of an emissions unit for which control technology is installed before the provisions regarding clean units are effective in the Kentucky SIP shall demonstrate to the cabinet that the emissions limitation achieved by the emissions unit's control technology is comparable to:~~

~~a. The LAER requirements that applied at the time the control technology was installed; or~~

~~b. The current day LAER requirements.~~

~~2. Emissions units with control technologies installed after provisions for clean units are effective in the Kentucky SIP. The owner or operator of an emissions unit for which control technology is installed after the provisions regarding clean units are effective in the Kentucky SIP shall demonstrate to the cabinet that the emissions limitation achieved by the emissions unit's control technology is comparable to current-day LAER requirements.~~

~~(4) Effective date of the clean unit designation. The date that the owner or operator may begin to use the clean unit test to determine if a project involving an emissions unit is a major modification shall be the later of:~~

1 ~~—— (a) The date that the permit or permit revision required by subsection (6) of this~~
2 ~~section is issued; or~~

3 ~~—— (b) The date that the emissions unit's air pollution control technology is placed~~
4 ~~into service.~~

5 ~~—— (5) Clean unit expiration. The date the owner or operator shall no longer be~~
6 ~~allowed to use the clean unit test to determine if a project involving an emissions unit is,~~
7 ~~or is part of, a major modification shall be determined according to this subsection.~~

8 ~~—— (a) For an emissions unit with a clean unit designation based on a demonstration~~
9 ~~by the owner or operator that the emissions unit's control technology is comparable to~~
10 ~~the LAER requirements that applied at the time the control technology was installed, the~~
11 ~~clean unit designation shall expire ten (10) years from the date the unit's control~~
12 ~~technology was installed.~~

13 ~~—— (b) For all other emissions units, the clean unit designation shall expire ten (10)~~
14 ~~years from the effective date of the clean unit designation.~~

15 ~~—— (c) The clean unit designation shall expire at any time the owner or operator fails~~
16 ~~to comply with the provisions for maintaining the clean unit designation according to~~
17 ~~subsection (8) of this section.~~

18 ~~—— (6) Procedures for designating emissions units as clean units.~~

19 ~~—— (a) The cabinet shall designate an emissions unit a clean unit by issuing a permit~~
20 ~~or permit revision under 401 KAR Chapter 52, including requirements for public notice~~
21 ~~of the proposed clean unit designation and opportunity for public comment; and~~

22 ~~—— (b) The permit or permit revision shall meet the requirements of subsection (7) of~~
23 ~~this section.~~

1 ~~—— (7) Required permit content. The Title V permit for a major stationary source with~~
2 ~~a clean unit shall, after the effective date of the clean unit designation and in~~
3 ~~accordance with the applicable provisions of 401 KAR Chapter 52, but not later than the~~
4 ~~date the Title V permit is renewed, include the following terms and conditions:~~

5 ~~—— (a) A statement indicating that the emissions unit qualifies as a clean unit and~~
6 ~~identifying the pollutant for which the clean unit designation applies.~~

7 ~~—— (b) The effective date of clean unit designation.~~

8 ~~—— 1. If the effective date is not known on the date the clean unit designation is~~
9 ~~initially recorded in the Title V permit, the permit or permit revisions shall describe the~~
10 ~~event that shall determine the effective date. Once the effective date is determined, the~~
11 ~~owner or operator shall notify the cabinet of the exact date; and~~

12 ~~—— 2. If originally absent from the Title V permit, the effective date of the clean unit~~
13 ~~shall be added to the source's Title V permit at the first opportunity the permit is opened,~~
14 ~~but not later than the next renewal.~~

15 ~~—— (c) The expiration date of clean unit designation.~~

16 ~~—— 1. If the expiration date is not known on the date the clean unit designation is~~
17 ~~initially recorded in the Title V permit, the permit or permit revision shall describe the~~
18 ~~event that shall determine the expiration date;~~

19 ~~—— 2. Once the expiration date is determined, the owner or operator shall notify the~~
20 ~~cabinet of the exact date; and~~

21 ~~—— 3. If originally absent from the Title V permit, the expiration date shall be added to~~
22 ~~the source's Title V permit at the first opportunity the permit is opened, but not later than~~
23 ~~the next renewal.~~

1 ~~—— (d) All emissions limitations and work practice requirements adopted in~~
2 ~~conjunction with emissions limitations necessary to assure the control technology~~
3 ~~continues to achieve an emissions limitation comparable to LAER and any physical or~~
4 ~~operational characteristics that formed the basis for determining that the emissions~~
5 ~~unit's control technology achieves a level of emissions control comparable to LAER.~~

6 ~~—— (e) Monitoring, recordkeeping, and reporting requirements as necessary to~~
7 ~~demonstrate that the emissions unit continues to meet the criteria for maintaining the~~
8 ~~clean unit designation pursuant to subsection (8) of this section.~~

9 ~~—— (f) Terms reflecting the owner or operator's duty to maintain the clean unit~~
10 ~~designation and the consequences of failing to do so, according to subsection (8) of this~~
11 ~~section.~~

12 ~~—— (8) Maintaining the clean unit designation.~~

13 ~~—— (a) The owner or operator shall conform to the provisions of this subsection to~~
14 ~~maintain clean unit status.~~

15 ~~—— 1. To ensure that the control technology continues to achieve emissions control~~
16 ~~comparable to LAER, the clean unit shall comply with the emissions limitations or work~~
17 ~~practice requirements adopted in conjunction with those that are comparable to LAER,~~
18 ~~which are recorded in the source's major NSR permit or permit revisions and~~
19 ~~subsequently reflected in the Title V permit that designates the unit as a clean unit.~~

20 ~~—— 2. The owner or operator shall not make a physical change in or change in the~~
21 ~~method of operation of the clean unit that causes the emissions unit to function in a~~
22 ~~manner that is inconsistent with the physical or operational characteristics that formed~~
23 ~~the basis for the determination that the control technology is achieving a level of~~

1 ~~emissions control that is comparable to LAER.~~

2 ~~3. The clean unit shall not emit above a level that has been offset.~~

3 ~~4. The clean unit shall comply with all terms and conditions in the Title V permit~~
4 ~~related to the unit's clean unit designation.~~

5 ~~5. The clean unit shall continue to control emissions using the specific air~~
6 ~~pollution control technology that was the basis for its clean unit designation. The clean~~
7 ~~unit designation shall end if the emissions unit or control technology is replaced.~~

8 ~~(b) The requirements of this subsection shall apply to each pollutant for which the~~
9 ~~cabinet has designated an emissions unit a clean unit. Failing to conform to the~~
10 ~~restrictions for one pollutant shall only affect the clean unit designation for that pollutant.~~

11 ~~(9) Offsets and netting at clean units.~~

12 ~~(a) Emissions changes that occur at a clean unit shall not be included in~~
13 ~~calculating a significant net emissions increase to be used in a netting analysis or for~~
14 ~~offsets, unless:~~

15 ~~1. Such use occurs before the date the clean unit provisions are effective in the~~
16 ~~Kentucky SIP or after the clean unit designation expires; or~~

17 ~~2. The emissions unit reduces emissions below the level that qualified the unit as~~
18 ~~a clean unit.~~

19 ~~(b) The owner or operator may generate a credit for the difference between the~~
20 ~~level that qualified the unit as a clean unit and the new emissions limitation, if:~~

21 ~~1. The unit reduces emissions below the level that qualified the unit as a clean~~
22 ~~unit; and~~

23 ~~2. The reductions are surplus, quantifiable, and permanent.~~

1 ~~—— (c) For generating offsets, reductions shall be federally enforceable.~~

2 ~~—— (d) For determining creditable net emissions increases and decreases, the~~
3 ~~reductions shall be enforceable as a practical matter.~~

4 ~~—— (10) Effect of area redesignation on clean units.~~

5 ~~—— (a) The clean unit designation of an emissions unit shall not be affected by~~
6 ~~redesignation of the attainment status of the area in which it is located.~~

7 ~~—— (b) If an existing clean unit designation expires or is lost, the unit shall requalify~~
8 ~~as a clean unit according to the requirements that are currently applicable in the area,~~
9 ~~regardless of the area's original attainment status during the previous designation~~
10 ~~period.~~

11 ~~—— Section 13. PCP Exclusion Procedural Requirements. For a project to qualify for~~
12 ~~a PCP exclusion, an owner or operator shall comply with the provisions of this section.~~

13 ~~—— (1) To request a PCP designation for a project the owner or operator shall:~~

14 ~~—— (a) Submit a notice to the cabinet before beginning actual construction for a~~
15 ~~project that is listed in the definition for "pollution control project" in 401 KAR 51:001,~~
16 ~~Section 1(188)(a) to (f); or~~

17 ~~—— (b) Submit an application for a permit or permit revision and obtain approval to~~
18 ~~use the PCP exclusion from the cabinet according to subsection (5) of this section for a~~
19 ~~project that is not listed in 401 KAR 51:001, Section 1(188)(a) to (f).~~

20 ~~—— (2) The owner or operator for all projects that rely on the PCP exclusion shall~~
21 ~~perform:~~

22 ~~—— (a) An environmentally beneficial analysis.~~

23 ~~—— 1. The environmental benefit from the emissions reductions of pollutants~~

1 regulated under ~~42 U.S.C. 7401 to 7671q (Clean Air Act)~~ shall outweigh the
2 environmental detriment of emissions increases in pollutants regulated under the Act;
3 and

4 ~~2. A statement that the project is implementing a technology from those listed in~~
5 ~~401 KAR 51:001, Section 1(188)(a) to (f) shall satisfy the requirement in subparagraph~~
6 ~~1 of this paragraph.~~

7 ~~(b) Air quality analysis. The emissions increases from the project shall not:~~

8 ~~1. Cause or contribute to a violation of any national ambient air quality standard~~
9 ~~or PSD increment; or~~

10 ~~2. Adversely impact visibility or another air quality related value that has been~~
11 ~~identified for a federal Class I area by a federal land manager and for which information~~
12 ~~is available to the general public.~~

13 ~~(3) Content of notice or application for a permit or permit revision. The owner or~~
14 ~~operator shall include the following information in the notice or application for a permit or~~
15 ~~permit revision submitted to the cabinet for a PCP:~~

16 ~~(a) A description of the project;~~

17 ~~(b) The potential emissions increases and decreases of any pollutant regulated~~
18 ~~under the Act and the projected emissions increases and decreases that will result from~~
19 ~~the project;~~

20 ~~(c) A copy of the environmentally beneficial analysis required by subsection~~
21 ~~(2)(a) of this section;~~

22 ~~(d) A description of all methods, including monitoring and recordkeeping, that~~
23 ~~shall be used on an ongoing basis to demonstrate that the project is environmentally~~

1 ~~beneficial and sufficient to meet the applicable requirements of 401 KAR Chapter 52;~~

2 ~~—— (e) A certification that the project shall be designed and operated in a manner~~
3 ~~that is consistent with:~~

4 ~~—— 1. The proper industry and engineering practices;~~

5 ~~—— 2. The environmentally beneficial analysis and air quality analysis required by~~
6 ~~subsection (2)(a) and (b) of this section;~~

7 ~~—— 3. The information submitted in the notice or permit application; and~~

8 ~~—— 4. Procedures that minimize emissions of collateral pollutants within the physical~~
9 ~~configuration and operational standards usually associated with the emissions control~~
10 ~~device or strategy.~~

11 ~~—— (f) Demonstration that the PCP shall not have an adverse air quality impact.~~

12 ~~—— 1. The demonstration requirement may be satisfied with modeling, screening~~
13 ~~level modeling results, a statement that the collateral emissions increase is included~~
14 ~~within the parameters used in the most recent modeling exercise as required by~~
15 ~~subsection (2)(b) of this section, or another method approved by the cabinet.~~

16 ~~—— 2. An air quality impact analysis shall not be required for any pollutant that will~~
17 ~~not experience a significant emissions increase from the project.~~

18 ~~—— (4) Notice process for listed projects. The owner or operator:~~

19 ~~—— (a) May begin actual construction of a PCP project immediately after notice is~~
20 ~~sent to the cabinet for projects listed in the definition of "pollution control project" in 401~~
21 ~~KAR 51:001, Section 1(188)(a) to (f); and~~

22 ~~—— (b) Shall respond to any requests by the cabinet for additional information~~
23 ~~necessary to evaluate the suitability of the project for a PCP exclusion.~~

1 ~~—— (5) Permitting process for unlisted projects.~~

2 ~~—— (a) The owner or operator shall not begin actual construction of a PCP that is not~~
3 ~~listed in 401 KAR 51:001, Section 1(188)(a) to (f) until the cabinet approves and issues~~
4 ~~a permit or permit revision for the project according to 401 KAR 52:020. These~~
5 ~~procedures shall include the cabinet providing the public with:~~

6 ~~—— 1. Notice of the proposed approval;~~

7 ~~—— 2. Access to the environmentally beneficial analysis and the air quality analysis;~~

8 ~~and~~

9 ~~—— 3. At least a thirty (30) day period for the public and the U.S. EPA to submit~~
10 ~~comments.~~

11 ~~—— (b) The cabinet shall address all material comments received by the end of the~~
12 ~~comment period before taking final action on the permit or permit revision.~~

13 ~~—— (6) Operational requirements. Upon installation of the PCP, the owner or operator~~
14 ~~shall comply with the requirements of this subsection.~~

15 ~~—— (a) General duty. The owner or operator shall operate the PCP in a manner that~~
16 ~~is consistent with:~~

17 ~~—— 1. Proper industry and engineering practices;~~

18 ~~—— 2. The environmentally beneficial analysis and air quality analysis required by~~
19 ~~subsection (2)(a) and (b) of this section;~~

20 ~~—— 3. Information submitted in the notice or application for a permit or permit revision~~
21 ~~required by subsection (3) of this section; and~~

22 ~~—— 4. Procedures that minimize emissions of collateral pollutants within the physical~~
23 ~~configuration and operational standards usually associated with the emissions control~~

1 device or strategy.

2 ~~—— (b) Recordkeeping. To prove that the PCP is operated consistent with the~~
3 ~~general duty requirements in paragraph (a) of this subsection, the owner or operator~~
4 ~~shall maintain copies on site, of:~~

5 ~~—— 1. The environmentally beneficial analysis;~~

6 ~~—— 2. The air quality impacts analysis; and,~~

7 ~~—— 3. The monitoring and other emissions records.~~

8 ~~—— (c) Permit requirements. The owner or operator shall comply with all provisions in~~
9 ~~a permit issued under 401 KAR 52:020 related to use and approval of the PCP~~
10 ~~exclusion.~~

11 ~~—— (d) Generation of emissions reduction credits.~~

12 ~~—— 1. Emissions reductions created by a PCP shall not be included in calculating a~~
13 ~~significant net emissions increase or for generating offsets, unless the emissions unit~~
14 ~~further reduces emissions after qualifying for the PCP exclusion.~~

15 ~~—— 2. The owner or operator may generate a credit for the difference between the~~
16 ~~level of reduction that was used to qualify for the PCP exclusion and the new emissions~~
17 ~~limitation if such reductions are surplus, quantifiable, and permanent.~~

18 ~~—— 3. For generating offsets, the reductions shall also be federally enforceable.~~

19 ~~—— 4. For determining creditable net emissions increases and decreases, the~~
20 ~~reductions shall also be enforceable as a practical matter.]~~

21 Section 11.~~[14.]~~ Plant-wide Applicability Limit Provisions. The cabinet may
22 approve the use of an actuals PAL (PAL) for an existing major stationary source if the
23 PAL meets the requirements of this section.

1 (1) General provisions.

2 (a) An owner or operator may execute a project without triggering major NSR, if
3 the source maintains its total source-wide emissions below the PAL level, meets the
4 requirements in this section, and complies with the PAL permit. If these conditions are
5 met, a project:

6 1. Shall not be considered a major modification for the PAL pollutant;

7 2. Shall not have to be approved through Kentucky's major NSR program; and

8 3. Shall not be subject to the provisions of Section 7(4) of this administrative
9 regulation concerning restrictions on relaxing enforceable emissions limitations that the
10 major stationary source used to avoid applicability of the major NSR program.

11 (b) Except as provided under subparagraph (1)(a)3 of this section, the major
12 stationary source shall continue to comply with all applicable federal or state
13 requirements, emissions limitations, and work practice requirements that were
14 established prior to the effective date of the PAL.

15 (c) The cabinet shall not allow a PAL for VOC or NO_x for any major stationary
16 source located in an extreme ozone nonattainment area.

17 (2) Permit application requirements. The owner or operator of a major stationary
18 source shall submit the following information to the cabinet for approval as part of an
19 application for a permit or permit revision requesting a PAL:

20 (a) A list of all emissions units at the source designated as small, significant or
21 major, based on their potential to emit;

22 (b) Identification of the federal and state applicable requirements, emissions
23 limitations, and work practice requirements that apply to each emissions unit;

1 (c) Calculations of the baseline actual emissions for the emissions units with
2 supporting documentation; and

3 (d) The calculation procedures the owner or operator proposes to use to convert
4 the monitoring system data to monthly emissions and annual emissions based on a
5 twelve (12) month rolling total for each month as required by subsection (12)(a) of this
6 section.

7 (3) Establishing a PAL. The cabinet shall establish a PAL at a major stationary
8 source in a federally enforceable permit pursuant to the requirements of this section.

9 (a) The PAL shall impose an annual emissions limitation in tons per year that is
10 enforceable as a practical matter for the entire major stationary source, in which:
11 [~~where:~~]

12 1. For each month during the PAL effective period after the first twelve (12)
13 months of establishing a PAL, the owner or operator shall demonstrate [~~show~~] that the
14 sum of the monthly emissions from each emissions unit under the PAL for the previous
15 twelve (12) consecutive months is less than the PAL as a twelve (12) month average,
16 rolled monthly; and

17 2. For each month during the first eleven (11) months from the PAL effective
18 date, the owner or operator shall demonstrate [~~show~~] that the sum of the preceding
19 monthly emissions from the PAL effective date for each emissions unit under the PAL is
20 less than the PAL;

21 (b) The PAL shall be established in a PAL permit that:

22 1. Meets the public participation requirements in subsection (4) of this section;

23 and

1 2. Contains all the requirements of subsection (6) of this section;

2 (c) A PAL shall include fugitive emissions, to the extent quantifiable, from all
3 emissions units that emit or have the potential to emit the PAL pollutant at the major
4 stationary source;

5 (d) Each PAL shall regulate emissions of only one (1) pollutant;

6 (e) Each PAL shall have a PAL effective period of ten (10) years;

7 (f) The owner or operator of a major stationary source with a PAL shall comply
8 with the monitoring, recordkeeping, and reporting requirements of subsections (11) to
9 (13) of this section for each emissions unit under the PAL through the PAL effective
10 period; and

11 (g) Emissions reductions of a PAL pollutant that occur during the PAL effective
12 period shall not be creditable as decreases for offsets under 40 C.F.R. 51.165(a)(3)(ii),
13 unless:

14 1. The level of the PAL is reduced by the amount of the [~~such~~] emissions
15 reductions; and

16 2. The reductions would be creditable in the absence of the PAL.

17 (4) Public participation requirements. PALs for existing major stationary sources
18 shall be established, renewed, or increased pursuant to this subsection and the
19 applicable procedures of 401 KAR 52:100 for issuing permits or permit revisions. The
20 cabinet shall:

21 (a) Provide the public with notice of the proposed approval of a PAL permit with
22 at least a thirty (30) day period for submittal of public comment; and

23 (b) Address all material comments before taking final action on a PAL permit or

1 permit revision.

2 (5) Setting the ten (10) year PAL level.

3 (a) The PAL level for a major stationary source shall be the sum of the baseline
4 actual emissions of the PAL pollutant for each emissions unit at the source during the
5 chosen twenty-four (24) month period plus the applicable significant level for the PAL
6 pollutant under the definition for "significant" in 401 KAR 51:001, Section 1[(224)] or
7 under 42 U.S.C. 7401-7671g, [the Act,] whichever is lower.

8 (b) In establishing a PAL level for a PAL pollutant, only one (1) consecutive
9 twenty-four (24) month period shall be used to determine the baseline actual emissions
10 for all existing emissions units.

11 (c) A different consecutive twenty-four (24) month period may be used for each
12 different PAL pollutant.

13 (d) Emissions associated with units that were permanently shutdown after the
14 chosen twenty-four (24) month period shall be subtracted from the PAL level.

15 (e) Emissions from units for which actual construction began after the twenty-four
16 (24) month period shall be added to the PAL level in an amount equal to the potential to
17 emit of the units.

18 (f) The cabinet shall specify a reduced PAL level in the PAL permit to become
19 effective on the future compliance date of any applicable federal or state regulatory
20 requirement that the cabinet is aware of prior to issuance of the PAL permit.

21 (6) Contents of the PAL permit. The PAL permit shall contain the following
22 information:

23 (a) The PAL pollutant and the applicable source-wide emissions limitation in tons

1 per year;

2 (b) The PAL permit effective date and the expiration date of the PAL or PAL
3 effective period;

4 (c) Specification in the PAL permit that if a major stationary source owner or
5 operator applies to renew a PAL under subsection (9) of this section before the end of
6 the PAL effective period, the PAL shall remain in effect until a revised PAL permit is
7 issued by the cabinet;

8 (d) A requirement that emissions calculations for compliance purposes include
9 emissions from startups, shutdowns, and ~~[shutdowns and]~~ malfunctions;

10 (e) A requirement that, once the PAL expires, the major stationary source shall
11 be [is] subject to the requirements of subsection (8) of this section;

12 (f) The calculation procedures that the major stationary source owner or operator
13 shall use to convert the monitoring system data to monthly emissions and annual
14 emissions based on a twelve (12) month rolling total for each month as required by
15 subsection (12)(a) of this section;

16 (g) A requirement that the major stationary source owner or operator shall
17 monitor all emissions units in accordance with the provisions in subsection (12) of this
18 section;

19 (h) A requirement that the owner or operator shall retain the records required
20 under subsection (12) of this section on site. Records may be retained in an electronic
21 format or another acceptable format approved by the cabinet;

22 (i) A requirement for the owner or operator to submit, by the reports required
23 under subsection (13) of this section by the required deadlines; and

1 (j) Any [Other] requirements necessary to implement and enforce the PAL.

2 (7) PAL effective period and reopening of a PAL permit.

3 (a) A PAL effective period shall be ten (10) years.

4 (b) The cabinet shall reopen a PAL permit to:

5 1. Correct typographical or calculation errors made in setting the PAL;

6 2. Reflect a more accurate determination of emissions used to establish the PAL;

7 3. Reduce the PAL if the owner or operator of the major stationary source
8 creates creditable emissions reductions for use as offsets under 40 C.F.R.
9 51.165(a)(3)(ii); or

10 4. Revise the PAL to reflect an increase in the PAL according to subsection (10)
11 of this section.

12 (c) The cabinet may reopen the PAL permit, during the PAL effective period, to:

13 1. Reduce the PAL to reflect newly applicable federal requirements with
14 compliance dates after the PAL effective date;

15 2. Reduce the PAL consistent with any other requirement:

16 a. That is enforceable as a practical matter; and

17 b. That may be imposed on the major stationary source under the SIP; and

18 3. Reduce the PAL if the cabinet determines that a reduction is necessary to
19 avoid causing or contributing to:

20 a. A National Ambient Air Quality Standard (NAAQS) or PSD increment violation;

21 or

22 b. An adverse impact on visibility or another air quality related value that has
23 been identified for a federal Class I area by a federal land manager and for which

1 information is available to the general public.

2 (d) All permit reopenings shall be carried out under the public participation
3 requirements of subsection (4) of this section except for permit reopenings to correct
4 typographical or calculation of errors that do not increase the PAL level.

5 (8) Expiration of a PAL. A PAL that is not renewed shall expire at the end of the
6 PAL effective period and the requirements of this subsection shall then apply.

7 (a) Each emissions unit, or each group of emissions units, that existed under the
8 PAL shall comply with an allowable emissions limitation under a revised permit
9 established as follows:

10 1. An owner or operator of a major stationary source using a PAL shall submit a
11 proposed allowable emissions limitation for each emissions unit, or each group of
12 emissions units, by distributing the PAL allowable emissions for the major stationary
13 source among each of the emissions units that existed under the PAL.

14 a. This proposal shall be submitted to the cabinet at least six (6) months before
15 the expiration of the PAL permit but not sooner than eighteen (18) months before permit
16 expiration.

17 b. If the PAL has not yet been adjusted for an applicable requirement that
18 became effective during the PAL effective period, as required under subsection (9)(e) of
19 this section, distribution of allowable emissions shall be made as if the PAL has been
20 adjusted.

21 2. The cabinet shall provide ~~decide~~ the date and procedure the owner or
22 operator shall use to distribute the PAL allowable emissions.

23 3. The cabinet shall issue a revised permit incorporating allowable limits for each

1 emissions unit, or each group of emissions units, as the cabinet determines is
2 appropriate.

3 (b) Each emissions unit shall comply with the allowable emissions limitation on a
4 twelve (12) month rolling basis. The cabinet may approve the use of monitoring systems
5 other than CEMS, CERMS, PEMS, or [~~PEMS or~~] CPMS to demonstrate compliance
6 with the allowable emissions limitation.

7 (c) The source shall continue to comply with a source-wide, multiunit emissions
8 cap equivalent to the level of the PAL emissions limitation until the cabinet issues the
9 revised permit incorporating allowable limits for each emissions unit or each group of
10 emissions units.

11 (d) A major modification at the major stationary source shall be subject to major
12 NSR requirements.

13 (e) The major stationary source owner or operator shall continue to comply with
14 any state or federal applicable requirements eliminated by the PAL that applied during
15 or before the PAL effective period, except for those emissions limitations established
16 pursuant to Section 7(4) of this administrative regulation.

17 (9) Renewal of a PAL.

18 (a) Public participation requirements.

19 1. The cabinet shall follow the public participation procedures specified in
20 subsection (4) of this section in approving a request to renew a PAL for a major
21 stationary source.

22 2. The cabinet shall provide a written rationale for the proposed PAL level for
23 public review and comment.

1 3. Any person may propose a PAL level for the source for consideration by the
2 cabinet during the public review period.

3 (b) Application deadline.

4 1. A major stationary source owner or operator shall submit an application for
5 renewal of a PAL at least six (6) months before the date of permit expiration but not
6 earlier than eighteen (18) months before permit expiration.

7 2. The deadline for application submittal shall ensure that the permit shall not
8 expire before the permit is renewed.

9 3. If a complete application for renewal is submitted within the timeframe
10 specified in subparagraph 1 of this paragraph, the PAL shall continue to be effective
11 until the revised permit with the renewed PAL is issued.

12 (c) Application requirements. The application to renew a PAL permit shall
13 contain:

14 1. The information required in subsection (2) of this section;

15 2. A proposed PAL level;

16 3. The sum of the potential to emit of all emissions units under the PAL with
17 supporting documentation; and

18 4. Any other information the owner or operator wishes the cabinet to consider in
19 determining the appropriate level to renew the PAL.

20 (d) PAL adjustment.

21 1. A PAL shall not exceed the source's potential to emit. The cabinet shall adjust
22 the PAL downward to a level not [nø] greater than the potential to emit if a source's
23 potential to emit has declined below the PAL level.

1 2. The cabinet may renew the PAL at the same level as the current PAL without
2 considering the factors specified in subparagraph 3 of this section, if the emissions level
3 calculated according to subsection (5) of this section is equal to or greater than eighty
4 (80) percent of the PAL level; or

5 3. The cabinet may set the PAL at a level that is determined to be:

6 a. More representative of the source's baseline actual emissions; or

7 b. Appropriate considering the following factors:

8 (i) Air quality needs;

9 (ii) Advances in control technology;

10 (iii) Anticipated economic growth in the area of the source;

11 (iv) The cabinet's goal of promoting voluntary emissions reductions; and

12 (v) Other factors as specifically identified by the cabinet in its written rationale for
13 setting the PAL level.

14 4. The cabinet shall not approve a renewed PAL level higher than the current
15 PAL, unless the major stationary source has complied with the provisions of subsection
16 (10) of this section.

17 (e) The PAL shall be adjusted in conjunction with the ~~[at the time of]~~ PAL permit
18 renewal or Title V permit renewal, whichever comes first, if:

19 1. The compliance date for a state or federal applicable requirement that applies
20 to the PAL source occurs during the PAL effective period; and

21 2. The cabinet has not already adjusted for the ~~[such]~~ requirement.

22 (10) Increasing a PAL during the PAL effective period. The cabinet may increase
23 a PAL emissions limitation during the PAL effective period if the major stationary source

1 complies with the provisions of this subsection.

2 (a) Application procedures. To request an increase in the PAL limit for a PAL
3 major modification, the owner or operator of the major stationary source shall submit a
4 complete application, which shall include:

5 1. Identification of the emissions units contributing to the increase in emissions
6 for the PAL major modification;

7 2. Demonstration that increased PAL, as calculated in paragraph (c) of this
8 subsection exceeds the PAL, and:

9 a. The level of control that results from BACT equivalent controls on each
10 significant or major emissions unit shall be determined by conducting a new BACT
11 analysis when ~~[at the time]~~ the application is submitted, unless the emissions unit is
12 currently required to comply with a BACT or LAER requirement that was established
13 within the preceding ten (10) years.

14 b. If an emissions unit currently complies with BACT or LAER, the assumed
15 control level for that emissions unit shall be equal to the current level of BACT or LAER
16 for that emissions unit; and

17 3. A statement that the increased PAL level shall be effective on the day any
18 emissions unit that is part of the PAL major modification becomes operational and
19 begins to emit the PAL pollutant.

20 (b) NSR permit and compliance requirement. The owner or operator shall obtain
21 a major NSR permit for all emissions units contributing to the increase in emissions for
22 the PAL major modification.

23 1. A significant level shall not apply in deciding for which emissions units a major

1 NSR permit shall be obtained; and

2 2. Emissions units that obtain a major NSR permit shall comply with any
3 emissions requirements resulting from the major NSR process, even though the units
4 shall also become subject to the PAL or shall continue to be subject to the PAL.

5 (c) Calculation of increased PAL. The cabinet shall calculate the new PAL as the
6 sum of the allowable emissions for each modified or new emissions unit, plus the sum
7 of the baseline actual emissions of the significant and major emissions units assuming
8 application of BACT equivalent controls, plus the sum of the baseline actual emissions
9 of the small emissions units.

10 (d) Public notice requirement. The public notice requirements of subsection (4) of
11 this section shall be followed during PAL permit revision for an increased PAL level.

12 (11) Monitoring requirements for PALs.

13 (a) General requirements.

14 1. Each PAL permit shall contain enforceable requirements for the chosen
15 monitoring system that accurately determines plant-wide emissions of the PAL pollutant
16 in terms of mass per unit of time;

17 2. A monitoring system authorized for use in the PAL permit shall be:

18 a. Approved by the cabinet pursuant to this subsection; ~~[cabinet;]~~ and

19 b. Based on sound science and meet generally-acceptable scientific procedures
20 for data quality and manipulation;

21 3. The data generated by a monitoring system shall meet minimum legal
22 requirements for admissibility in a judicial proceeding to enforce the PAL permit;

23 4. The PAL monitoring system shall employ one (1) or more of the four (4)

1 general monitoring approaches meeting the minimum requirements set forth in
2 paragraph (b) of this subsection;

3 5. The cabinet may approve an alternative monitoring approach that meets the
4 requirements of subparagraphs 1 to 3 of this paragraph; and

5 6. Failure to use a monitoring system that meets the requirements of this section
6 shall render the PAL invalid.

7 (b) Minimum performance requirements for approved monitoring approaches. If
8 conducted in accordance with the minimum requirements in paragraphs (c) to (i) of this
9 subsection, the following shall be acceptable monitoring approaches:

10 1. Mass balance calculations for activities using coatings or solvents;

11 2. CEMS;

12 3. CPMS or PEMS; and

13 4. Emissions factors.

14 (c) Mass balance calculations. An owner or operator using mass balance
15 calculations to monitor PAL pollutant emissions from activities using coatings or
16 solvents shall:

17 1. Provide a demonstrated means of validating the published content of the PAL
18 pollutant ~~[that is]~~ contained in or created by all materials used in or at the emissions
19 unit;

20 2. If it cannot be accounted for in the process, assume that the emissions unit
21 emits all of the PAL pollutant ~~[that is]~~ contained in or created by any raw material or fuel
22 used in or at the emissions unit; and

23 3. If the vendor of the material or fuel from which the pollutant originates

1 publishes a range, use the highest value of the published range of pollutant content to
2 calculate the PAL pollutant emissions, unless the cabinet determines there is site-
3 specific data or a site-specific monitoring program to support another pollutant content
4 within the range.

5 (d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions
6 shall meet the following requirements:

7 1. CEMS shall comply with applicable Performance Specifications found in 40
8 C.F.R. Part 60, Appendix A; [~~Appendix B~~;] and

9 2. CEMS shall sample, analyze, and record data at least every fifteen (15)
10 minutes while the emissions unit is operating.

11 (e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL
12 pollutant emissions shall meet the following requirements:

13 1. The CPMS or the PEMS shall be based on current site-specific data
14 demonstrating a correlation between the monitored parameter and the PAL pollutant
15 emissions across the range of operation of the emissions unit; and

16 2. While the unit is operating, each CPMS or PEMS shall sample, analyze, and
17 record data at least every fifteen (15) minutes, or at another less frequent interval
18 approved by the cabinet.

19 (f) Emissions factors. An owner or operator using emissions factors to monitor
20 PAL pollutant emissions shall meet the following requirements:

21 1. All emissions factors shall be adjusted, if appropriate, to account for the
22 degree of uncertainty or limitations in the factors' development;

23 2. The emissions unit shall operate within the designated range of use for the

1 emissions factor, if applicable; and

2 3. If technically practicable, the owner or operator of a significant emissions unit
3 that relies on an emissions factor to calculate PAL pollutant emissions shall conduct
4 validation testing to determine a site-specific emissions factor within six (6) months of
5 PAL permit issuance, unless the cabinet determines that testing is not required.

6 (g) A source owner or operator shall record and report maximum potential
7 emissions without considering enforceable emissions limitations or operational
8 restrictions for an emissions unit during any period of time there is no monitoring data,
9 unless another method for determining emissions during the [such] periods is specified
10 in the PAL permit.

11 (h) If an owner or operator of an emissions unit cannot demonstrate a correlation
12 between the monitored parameters and the PAL pollutant emissions rate at all operating
13 points of the emissions unit, as an alternative to the requirements in paragraphs (c) to
14 (g) of this subsection, in conjunction with ~~[at the time of]~~ permit issuance the cabinet
15 shall:

16 1. Establish default values for determining compliance with the PAL based on the
17 highest potential emissions reasonably estimated at operating points if a correlation
18 cannot be demonstrated; or

19 2. If there is not a [no] correlation between monitored parameters and the PAL
20 pollutant emissions, determine that operation of the emissions unit during operating
21 conditions is a violation of the PAL.

22 (i) Revalidation. All data used to establish the PAL pollutant shall be revalidated
23 through performance testing or other scientifically-valid means approved by the cabinet.

1 Validation testing shall occur at least once every five (5) years after issuance of the
2 PAL.

3 (12) Recordkeeping requirements.

4 (a) The PAL permit shall require an owner or operator to retain a copy of all
5 records necessary to determine compliance with any requirement of this section and of
6 the PAL, including a determination of each emissions unit's twelve (12) month rolling
7 total emissions for five (5) years from the date of the determination.

8 (b) The PAL permit shall require an owner or operator to retain a copy of the
9 following records for the duration of the PAL effective period plus five (5) years:

10 1. A copy of the PAL permit application and any applications for revisions to the
11 PAL; and

12 2. Each annual certification of compliance pursuant to Title V and the data used
13 to certify the compliance.

14 (13) Reporting and notification requirements. The owner or operator shall submit
15 semi-annual monitoring reports and prompt deviation reports to the cabinet in
16 accordance with 401 KAR Chapter 52 that meet the following requirements:

17 (a) Semiannual report. The semiannual report shall be submitted to the cabinet
18 within thirty (30) days of the end of each reporting period and shall contain:

19 1. The identification of owner and operator and the permit number;

20 2. Total annual emissions, in tpy, based on a twelve (12) month rolling total for
21 each month in the reporting period recorded pursuant to subsection (12)(a) of this
22 section;

23 3. All data used in calculating the monthly and annual PAL pollutant emissions,

1 including any quality assurance or quality control data;

2 4. A list of any emissions units modified or added to the major stationary source
3 during the preceding six (6) month period;

4 5. The number, duration, and cause of any deviations or monitoring malfunctions,
5 other than the time associated with zero and span calibration checks, and any
6 corrective action following a deviation;

7 6. A notification of permanent or temporary shutdown of any monitoring system
8 including:

9 a. The reason for the shutdown;

10 b. The anticipated date that the monitoring system shall be fully operational or
11 shall be replaced with another monitoring system;

12 c. If applicable, a statement that the emissions unit monitored by the monitoring
13 system continued to operate without the monitoring system; and

14 d. The calculation of the emissions of the pollutant or the number determined
15 according to subsection (11)(g) of this section that is included in the permit; and

16 7. A signed statement by the responsible official, as defined by 401 KAR 51:001,
17 Section 1(210), [~~52:001~~], certifying the truth, accuracy, and completeness of the
18 information provided in the semiannual report.

19 (b) Deviation report. The major stationary source owner or operator shall submit
20 reports of any deviation or exceedance of the PAL requirements, including periods
21 monitoring is unavailable.

22 1. A report submitted pursuant to 40 C.F.R. 70.6(a)(3)(iii)(B) shall satisfy this
23 deviation reporting requirement;

1 2. The deviation report shall be submitted within the time limits prescribed by the
2 applicable program implementing 40 C.F.R. 70.6(a)(3)(iii)(B);

3 3. The deviation report shall contain the following information:

4 a. The identification of the owner, the operator, and ~~[operator and]~~ the permit
5 number;

6 b. The PAL requirement that experienced the deviation or that was exceeded;

7 c. Emissions resulting from the deviation or the exceedance; and

8 d. A signed statement by the responsible official, as defined by 401 KAR 51:001,
9 Section 1(210), ~~[52:001,]~~ certifying the truth, accuracy, and completeness of the
10 information provided in the report.

11 (c) Revalidation results. The owner or operator shall submit to the cabinet the
12 results of any revalidation test or method within three (3) months after completion of the
13 test or method.

14 (14) Transition requirements.

15 (a) After the U.S. EPA approves the Kentucky SIP revisions for the PAL
16 provisions published at 67 Fed. Reg. 80186, December 31, 2002, the cabinet shall only
17 issue a PAL that complies with the requirements of this section.

18 (b) The cabinet may supersede a PAL that was established before August 10,
19 2006, ~~[the date the U.S. EPA approves the Kentucky SIP revisions for the PAL~~
20 ~~provisions published at 67 Fed. Reg. 80186, December 31, 2002,]~~ with a PAL that
21 complies with the requirements of this administrative regulation. ~~[section.]~~

9/9/09

Date



Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 28, 2009, at 10:00 a.m. (local time) in Conference Room 201 B on the first floor of the Division for Air Quality at 200 Fair Oaks Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on November 2, 2009. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person listed below.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Laura Lund, Environmental Technologist II, Division for Air Quality, 1st Floor, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, telephone (502) 564-3999, ext. 4428, fax (502) 564-4666, and electronic mail Laura_Lund@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 51:052

Contact person: Laura Lund, Environmental Technologist II

- (1) **Provide a brief summary of:**
 - (a) **What this administrative regulation does:** This administrative regulation provides for the nonattainment new source review (NSR) and applies to new construction or modification of major stationary sources in areas designated nonattainment for a specified pollutant.
 - (b) **The necessity of this administrative regulation:** This administrative regulation is necessary in order to continue to receive full delegation of authority for the federal NSR program in Kentucky.
 - (c) **How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100 authorizes the Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. KRS 224.10-100(26) mandates the preservation of clean air resources while ensuring economic growth. This regulation conforms to the statutes because it is no more stringent than the federal mandate.
 - (d) **How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation is no more stringent than the federal mandate, codified in 40 C.F.R. 51.165.
- (2) **If this is an amendment to an existing administrative regulation, provide a brief summary of:**
 - (a) **How the amendment will change this existing administrative regulation:** This amendment revises the list of exempted major stationary sources codified in 40 C.F.R. Part 51, and the list of major sources codified in 40 C.F.R. Part 70, as they relate to PSD, NSR, and Title V applicability. The amendment removes the existing standards and requirements for clean units (CU) and pollution control projects (PCP) that have been vacated at the federal level in a D.C. Court of Appeals decision. This amendment includes nitrogen oxides (NOx) as a precursor for ozone.
 - (b) **The necessity of the amendment to this administrative regulation:** These regulatory revisions are necessary in order to implement changes in the KY State Implementation Plan (SIP) in response to changes in the federal rules
 - (c) **How the amendment conforms to the content of the authorizing statutes:** Kentucky's federally-approved NSR SIP provides the permitting and enforcement authority delegated from the U.S. EPA to the Commonwealth.

- (d) **How the amendment will assist in the effective administration of statutes:** This administrative regulation amendment is modeled after the federal regulations.
- (3) **List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation.** The amendment revises the applicability of major sources by specifically excluding "chemical process plants" that produce ethanol through a natural fermentation process. In addition, sources meeting standards and requirements for CU and PCP, and sources emitting NO_x in an area designated as nonattainment for ozone, are affected by this administrative regulation.
- (4) **Provide an assessment of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:**
- (a) **List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** Regulated entities shall continue to comply with this administrative regulation. This amendment affects existing or proposed facilities that produce ethanol through a natural fermentation process as it specifically excludes them, under the component term "chemical process plants," from having to comply with the PSD/NSR requirements. Sources will no longer be required to meet standards and requirements for CU and PCP. In addition, sources emitting NO_x in an area designated as nonattainment for ozone will be subject to permitting as volatile organic compounds have been.
- (b) **In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** There are no additional costs involved in compliance with this regulation.
- (c) **As a result of compliance, what benefits will accrue to the entities identified in question (3):** Ethanol facilities, as defined in C.F.R. 51.166 and this administrative regulation are no longer included under the 100 tons per year PTE limit for major source categories under the PSD/NSR rules. As a result of not having to apply additional emission controls, growth of the ethanol industry will increase.
- (5) **Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**
- (a) **Initially:** The Cabinet will not incur any additional costs for the implementation of this regulation.
- (b) **On a continuing basis:** There will not be any additional continuing costs for the implementation of this regulation.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** The Cabinet's current operating budget will be used for the implementation and enforcement of this

regulation.

- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment.** No increase in fees or funding is necessary to implement this regulation.
- (8) **State whether or not this administrative regulation established any fees or directly or indirectly increased any fees.** This regulation does not establish, nor does it directly or indirectly increase any fees.
- (9) **TIERING: Is tiering applied?** Yes. The applicability and compliance requirements that are tiered in this administrative regulation are modeled after the federal PSD and NSR rules.

FEDERAL MANDATE ANALYSIS COMPARISON

1. **Federal statute or regulation constituting the federal mandate.** 42 U.S.C. 7401-7671q; 42 U.S.C. 7401-7626, 7407(d)(1)(A)(i), (ii), and (iii), 7410, provides the statutory mandate codified in 40 C.F.R. Part 52.21, as amended in 72 Fed. Reg. 24077, May 1, 2007, and in 72 Fed. Reg. 32528, June 13, 2007.
2. **State compliance standards.** The state compliance standards are found in KRS 224.10-100(5).
3. **Minimum or uniform standards contained in the federal mandate.** The federal NSR mandate requires sources described in Section 1 of this administrative regulation to demonstrate that any construction or modification of the source will not cause a net increase in pollution; neither will the source create a delay in attainment of the NAAQS; and that the source will install and use control technology that achieves the lowest achievable emissions rate (LAER).

The amendment to this administrative regulation excludes "chemical process plants" that produce ethanol by a natural fermentation process in the revised definition of major stationary source. Further revisions include the removal of clean unit (CU) and pollution control project (PCP) requirements because they have been vacated at the federal level by a decision from the D.C. Court of Appeals. This amendment requires sources emitting NO_x in an area designated as nonattainment for ozone to be subject to permitting as volatile organic compounds have been.

4. **Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?** No. This regulation is modeled after federal regulations.
5. **Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** Stricter standards and requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 51:052

Contact person: Laura Lund, Environmental Technologist II

- 1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes.**
- 2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?** The Division for Air Quality will continue to implement and enforce the New Source Review (NSR) program in the Commonwealth.
- 3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.** KRS 224.10-100(5), 42 U.S.C. 7401-7671q.
- 4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?** This regulation generates no revenues.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?** This regulation generates no revenues.
 - (c) How much will it cost to administer this program for the first year?** The Cabinet's existing operating budget continues as the source of funding for the implementation of this program.
 - (d) How much will it cost to administer this program for subsequent years?** There will be no additional costs for administering the program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.